HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARNUNA REDDY

WRIT PETITION No. 5841 OF 2007

Between:

The Commandant,
IX Bn., Andhra Pradesh Special Police,
Venkatagiri, Nellore Distirct

... Petitioner

AND

R.Sundaramma & others.

... Respondents

: ORDER :

Counsel for the petitioner : Government Pleader for Home

Dated: 26.03.2007

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Per C.V.Nagarjuna Reddy, J

This is a petition for quashing order dated 28-8-2003 passed by District Consumer Redressal Forum-I, Krishna District at Machilipatnam (for short, 'the Tribunal') in C.D.No.17 of 1999.

A perusal of the record shows that the son of Smt.R.Sundaramma (respondent No.1 herein), who was employed in IX Battalion, Andhra Pradesh Special Police and was, at the relevant time, on deputation in the Prohibition and Excise Department of the State Government, died on 26-6-1998. Respondent No.1 filed a complaint under Section 12 of the Consumer Protection Act, 1986 (for short, 'the Act) for issue of a direction to the opposite parties (the authorities of the Life Insurance Corporation of India, the petitioner and Superintendent, Prohibition and Excise, Machilipatnam) for payment of the amount in terms of the insurance policy issued by Naidupet Branch of the Life Insurance Corporation of India. She averred that while working with the petitioner as Police Constable, her son had obtained LIC policy bearing No. 841831149 of 'Jeevan Mitra Endowment Plan' for Rs.50,000/- under the salary saving scheme. She further

averred that while he was proceeding for a raid on illicit distillation of arrack, her son got drowned in Gunderu stream. According to respondent No.1, premium was paid by the employer for five months, but the remaining amount was not paid by the petitioner and the concerned officer of the Prohibition and Excise Department. The complaint of respondent No.1 was registered as C.D.No.17 of 1999.

The petitioner did not file reply to contest the complaint. Respondent Nos.2 and 3 filed their counters and pleaded that they were not liable to pay the amount in terms of the policy.

After considering the pleadings and evidence on record, the District Forum held that there was deficiency in service on the part of the petitioner and passed order dated 28.08.2003 for payment of Rs.20,000/- as compensation and Rs.5,000/- as costs.

The appeal preferred by the petitioner, which was registered as F.A.SR.No.1718 of 2004 along with an application for condonation of 187 days delay, was dismissed as time barred the Andhra Pradesh State Consumer Disputes Redressal Commission, Hyderabad (for short 'State Commision') vide its order dated 01.06.2004.

Soon after dismissal of the appeal preferred by the petitioner, respondent No.1 filed an application under Section 27 of the Act, following which a warrant was issued against the petitioner. The petitioner filed I.A.No.102 of 2005 to recall the warrant, which was dismissed by the District Forum vide its order dated 28.10.2005. Now, the petitioner has filed writ petition questioning the legality of order dated 28.08.2003 passed by the

District Forum in C.D.No.17 of 1999.

We have heard learned Government Pleader for Home. In our opinion, the writ petition is liable to be dismissed summarily because,

i) The order of the District Forum passed in C.D.No.17 of 1999 was questioned in appeal and with the rejection of application for condonation of the delay in filing the appeal and dismissal of the appeal, the order of the District Forum got merged in the order of the State Commission. This writ petition, which is filed questioning the order of the District Forum without specifically challenging the order of the Commission is, therefore, wholly misconceived.

ii) This writ petition has been filed more than 3 ½ years after the disposal of C.D.No.17 of 1999 and the petitioner failed to explain the inordinate delay in filing this writ petition, which thus suffers from uncondonable laches. While considering what is a reasonable period for filing writ petition, the limitation prescribed for filing appeal against the order of the original authority is normally considered and in the instant case, the limitation prescribed for questioning any order of District Forum before the State Commission is 30 days. This writ petition filed more than 3 ½ years after passing the order of the District Forum, thus suffers from inordinate delay.

In the result, the writ petition is dismissed.

As a sequel to the dismissal of the Writ Petition, W.P.M.P.No.7449 of 2007 is also dismissed as infructuous.

C.V.NAGARJUNA

REDDY,J

G.S.SINGHVI, CJ

Date:26.03.2007

ccm